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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,486	06/15/2001	Jay H. Connelly	042390P11861	8023

7590 01/26/2005
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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/882,486	Applicant(s) CONNELLY, JAY H.	
	Examiner Jason P Salce	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-15,32-37,53-56 and 77-79 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 10-15, 32-37, 53-56 and 77-79 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-15, 32-37, 53-56 and 77-79 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Payton (U.S. Patent No. 5,790,935).

Referring to claim 10, Payton discloses receiving, at a client, content descriptors (see Column 6, Lines 7-11 for receiving a recommended list), which describe content from a server (see Column 5, Lines 12-16 for the server creating the recommended list).

Payton also discloses generating demand data related to the content described by the content descriptors (see Column 6, Lines 7-9 for displaying/generating the recommended list, which represents demand data related to content/movies selectable by the user that are described by the recommended list/content descriptors).

Payton also discloses sending demand data feedback from the client to the server (see Column 6, Lines 51-55) after demand data related to a predetermined amount of content is generated (see Column 6, Lines 29-30 for the user demanding the data by making a request, and that the data requested is represented by a digital item 36, which includes videos). The examiner notes that a video has a predetermined running time, for example, a movie can run anywhere from an hour, hour and a half, or

two hours. Therefore, the demand data is inherently related to a predetermined amount of content (predetermined running time) that is generated (requested to be viewed).

Referring to claim 11, Payton discloses that the generation of the demand data comprises consuming at least a portion of content locally stored by the client (see Column 7, Lines 13-25 for determining if a movie is stored at the local storage 56 or at the remote storage 34), the generation of demand data responsive to the portion of content that is consumed (see Column 6, Lines 36-50 for generating demand data based on the content that is consumed by a subscriber).

Referring to claim 12, Payton discloses generating demand data by explicitly receiving user input regarding specific pieces of content (see again Column 6, Lines 36-40 for assigning a value of interest for each piece of content that the subscriber has viewed).

Referring to claim 13, Payton discloses sending demand data to the server after demand data related to a first number of pieces of content have been generated (see Column 6, Lines 48-50 for using a subscriber's viewing habits to augment a subscriber profile, therefore, since viewing habits are being monitored and stored in a user profile, and then the profile being transmitted to the server at Column 6, Lines 51-55, the demand data (represented by a viewer's profile) is related to a first number of pieces of content that have been viewed/generated).

Referring to claims 14-15, Payton discloses ranking/rating the content (see again Column 6, Lines 36-40).

Referring to claims 32-37, see the rejection of claims 10-15, respectively.

Referring to claims 53-56, see the rejection of claims 10-13, respectively. Also note, in regards to claim 53, that the additional limitations of a processor having circuitry to execute instructions is met by (see element 60 in Figure 2), and note that the additional limitations of a communication interface coupled to the processor, the communications interface couple to receive communications from a server are met at (see element 52 in Figure 2), and note that the additional limitations of a storage device coupled to the processor having instructions stored therein are met at (see element 56 in Figure 2).

Referring to claims 77-79, see the rejection of claims 10-12.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Art Unit: 2611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 18, 2005


CHRIS GRANT
PRIMARY EXAMINER